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Senate Bill _____
By _____

House No. HB0601
By Herron

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 35, relative to the imposition of sentence in criminal cases.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

(a) On or before July 15, 1995, and on an annual basis thereafter, the department of correction shall provide to each trial court judge exercising criminal jurisdiction a chart listing the minimum number of months or years a defendant sentenced to the department must remain incarcerated before first being eligible for release from custody. In calculating such minimum period of incarceration, the department shall assume the defendant:

- (1) Will earn and retain the maximum number of sentence reduction credits for which such defendant is eligible;
- (2) Was convicted of an offense that makes such defendant eligible for early release pursuant to the governor's power to reduce prison overcrowding codified in Tennessee Code Annotated, Title 41, Chapter 1, Part 5; and

(3) Will be granted and released on parole on the first date such defendant is eligible for such release.

(b) The chart listing a defendant's minimum period of incarceration as required by subsection (a) shall include each possible sentence from two (2) years to sixty (60) years.

(c) If the chart listing minimum periods of incarceration provided by the department to the judges pursuant to this section becomes inaccurate because of a change in the law or correctional policy, the order of a court of competent jurisdiction, the governor's prison overcrowding reduction policy or any other such circumstance, the department shall formulate a revised chart and send it to the judges as such changes occur.

SECTION 2.

(a) On or before July 15, 1995, and on an annual basis thereafter, the department of correction shall provide to each trial court judge exercising criminal jurisdiction a chart identical to the chart required by Section 1 of this act except that in calculating such minimum period of incarceration, the department shall assume the defendant:

(1) Will earn and retain the maximum number of sentence reduction credits for which such defendant is eligible;

(2) Was convicted of an offense that makes such defendant ineligible for early release pursuant to the governor's power to reduce prison overcrowding codified in Tennessee Code Annotated, Title 41, Chapter 1, Part 5; and

(3) Will be granted and released on parole on the first date such defendant is eligible for such release.

(b) The chart required by this section shall also list the offenses that make a defendant ineligible for early release pursuant to the governor's power to reduce prison overcrowding codified in Tennessee Code Annotated, Title 41, Chapter 1, Part 5.

(c) If the department determines that putting both charts required by this act on a single piece of paper will make them easier for the judges to use and understand, it may do so.

(d) If the chart listing minimum periods of incarceration provided by the department to the judges pursuant to this section becomes inaccurate because of a change in the law or correctional policy, the order of a court of competent jurisdiction, the governor's prison overcrowding reduction policy or any other such circumstance, the department shall formulate a revised chart and send it to the judges as such changes occur.

SECTION 3. Tennessee Code Annotated, Section 40-35-210, is amended by adding the following as a new subsection:

() (1) Whenever the court imposes a sentence, it shall state for the record in open court the minimum number of months or years that the defendant will remain incarcerated before being eligible for release on the sentence imposed. The court shall base such minimum period of incarceration on the charts provided to it by the department of correction.

(2) The court shall also state that whether the defendant is actually released following such minimum period of incarceration is dependent upon many factors including, but not limited to, the defendant's conviction offense and conduct while in prison, future changes in correctional policy or state law, whether additional prisons are constructed and whether the board of paroles exercises its discretion to grant the defendant parole.

(3) If the defendant is convicted of an offense for which there is no parole eligibility or for which there is a statutory minimum period of incarceration before parole eligibility, the court shall state that the defendant is required to serve the entire sentence imposed by the court or shall state the statutory minimum that the defendant must serve.

(4) The announcement by the court of a defendant's minimum period of incarceration is an estimate based upon information furnished by the department of correction. A defendant's actual minimum period of incarceration is based upon factors that are unknown at the time of sentencing. Such announcement is given solely for the benefit of the public and no defendant shall have a right to rely upon such estimate as the minimum period of incarceration such defendant will actually be required to serve. Failure of the court to announce a defendant's minimum period of incarceration as required by subsection (a) or failure of such announcement to be an accurate estimate of such minimum period of incarceration shall not be used by a defendant as a ground for appeal, new trial, post-conviction relief or habeas corpus nor shall it be construed to authorize a court to set aside, reverse, vacate, void, invalidate, delay or otherwise interfere with a finding of guilt, acceptance of a plea of guilty or with the execution of any sentence imposed by the court.

SECTION 4. Tennessee Code Annotated, Section 40-35-201, is amended by deleting subsection (b)(2) in its entirety.

SECTION 5. For the purpose of preparing the charts listing minimum periods of incarceration and distributing such charts to judges as required by Sections 1 and 2, this act shall take effect upon becoming a law, the public welfare requiring it. For the purpose of a judge stating a defendant's minimum period of incarceration as required in Section 3, this act shall take effect on August 1, 1995, the public welfare requiring it and shall apply to all defendants sentenced on or after such date.

AN ACT to amend Tennessee Code Annotated, Title 65, Chapter 12, relative to the imposition of sentence in criminal cases.

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